

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

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|------------------------------|---|-----------------------|
| House of Blues Brands Corp., | § | Serial No. 78/311,474 |
| | § | |
| Opposer, | § | |
| | § | Mark: HOUSE OF BLUES |
| v. | § | |
| | § | |
| Proseeds Marketing, Inc., | § | Opposition No. _____ |
| | § | |
| Applicant. | § | |

NOTICE OF OPPOSITION

HOUSE OF BLUES BRANDS CORP., a Delaware corporation having an office at 6255 Sunset Boulevard, 16th Floor, Hollywood, California 90028, believes that it will be damaged by registration of the mark shown in application Serial No. 78/311,474 in International Class 31, and hereby opposes same.

As grounds for opposition, it is alleged:

1. Applicant seeks registration on the Principal Register of the word mark, HOUSE OF BLUES, in International Class 31 for “Kentucky bluegrass grass seed blend.” Said efforts by Applicant are evidenced by the publication of said mark in the Trademark Office Official Gazette on page TM 392 of the July 20, 2004 issue.

2. On information and belief, Applicant’s application for the mark HOUSE OF BLUES was filed based upon an intent to use the mark in connection with the aforementioned goods.

3. Opposer, in conjunction with its parent company, HOB Entertainment, Inc., is a nationally and internationally renowned provider of restaurant and nightclub services featuring live music provided on the restaurant premises. Said services are offered under the mark,

HOUSE OF BLUES.

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4. Opposer operates prominent restaurant/nightclub establishments under the mark, HOUSE OF BLUES, in major U.S. cities, including Cambridge, Los Angeles, New Orleans, Chicago, Orlando, Myrtle Beach and Las Vegas. Opposer has offered its restaurant/nightclub services since at least as early as November 1992. Opposer has the exclusive right to use HOUSE OF BLUES as a service mark for bar and restaurant services, in Class 42, as evidenced by Opposer's U.S. Registration No. 1,772,628, obtained on May 18, 1993, a true and correct copy of which is attached hereto as Exhibit "A", which is incorporated hereby by referenced for all purposes.

5. HOB Brands is the record owner of U.S. Reg. No. 1,772,628. The original applicant, Isaac B. Tigrett ("Tigrett"), assigned the mark and application (serial no. 74/254,677) to Opposer (f/k/a House of Blues Trademark Company) in a written assignment effective November 16, 1992. The Assignment Branch of the U.S. Patent and Trademark Office recorded a copy of the assignment from Tigrett to Opposer on August 17, 1993 at Reel/Frame 1019/0376.

6. The HOUSE OF BLUES mark is protected by numerous other registrations on the Principal Register of the U.S. Patent and Trademark Office, including U.S. Reg. Nos. 1,772,628 and 2,024,199 and 1,874,712 and 2,739,958 and 2,550,199 and 2,507,466 and 2,457,890 and 2,507,467 and 2,507,798 and 2,723,813 and 1,891,179 and 1,938,673 and 1,940,915 and 2,638,573 and 2,413,015 and 2,457,988 and 2,474,439 and 2,474,442 and 2,458,649 and 2,571,011 and 2,571,010 and 2,370,089 and 2,343,876 and 2,467,076 and 2,187,390 and 2,704,410. Opposer is the record owner of each of the foregoing registrations.

7. The HOUSE OF BLUES mark has been adjudicated to be a "famous" mark within the meaning of 15 U.S.C. § 1125(c) by the Trademark Trial and Appeal Board, the administrative tribunal within the U.S. Patent and Trademark Office. A true and correct copy of

the TTAB decision finding the HOUSE OF BLUES mark to be “famous” is attached hereto as Exhibit “B” (*House of Blues Brands Corp. v. Sylvia Woods, Inc.*, 71 USPQ2d 1308).

8. Opposer, in conjunction with its parent company and affiliates, also produces and markets collections of music on pre-recorded audio cassettes, compact discs and videotapes. Such pre-recorded music has been sold and distributed nationwide by Opposer since at least as early as April 1995. Opposer has the exclusive right to use HOUSE OF BLUES as a trademark for pre-recorded audio and video musical performances, as evidenced by Opposer’s U.S. Registration No. 1,933,441, a true and correct copy of which is attached hereto as Exhibit “C”.

9. Opposer, in conjunction with its parent company and affiliates, also operates the International HOUSE OF BLUES Foundation (the “Foundation”), a non-profit educational and cultural center for educating the public about culture and history, and music’s influence thereon. The Foundation carries out its charitable education mission by conducting seminars, lectures and presentations on topics of culture and history. The Foundation has been in continuous operation since at least as early as March 1993. Opposer has the exclusive right to use INTERNATIONAL HOUSE OF BLUES FOUNDATION (plus design) as a trademark for non-profit educational services, namely, providing courses, seminars, lectures and presentations concerning culture and history, as evidenced by Opposer’s U.S. Registration No. 2,187,390, a true and correct copy of which is attached hereto as Exhibit “D”.

10. Opposer, in conjunction with its parent company and affiliates, also promotes hundreds of major concert productions a year at more than twenty House of Blues-controlled venues such as the Universal Amphitheater in the Los Angeles Universal Studios theme park, San Diego’s Coors Amphitheater, “The Gorge” in Washington state, Denver’s “Red Rocks,” and Atlanta’s “Lakewood Amphitheater.” Opposer also promotes live musical concerts in third-party

non-owned venues throughout the United States, ranging from small local nightclubs to 20,000 person amphitheaters.

11. Opposer, in conjunction with its parent company and affiliates, also promotes its endeavors through the "House of Blues Radio Hour," a weekly radio show broadcast internationally over the CBS Radio Network and the Armed Forces Radio Network. The "House of Blues Radio Hour" reaches approximately 125 markets in the United States.

12. In addition to extensive national paid advertising promoting Opposer's HOUSE OF BLUES venues, national and international media have given Opposer extensive exposure. Specifically, Opposer has been featured in The Wall Street Journal, Southern Living, Forbes, USA Today, In Style, Daily Variety, People, Billboard, The Los Angeles Times, The Dallas Morning News, and numerous other newspapers and periodicals. Opposer has also received positive reviews in several small-town newspapers far from Opposer' venues.

13. In addition, Opposer has received television exposure on Entertainment This Week, Entertainment Tonight, E! Television, MTV, and on other television shows and networks. Opposer received significant television exposure during the 1996 Olympic Games in Atlanta, when a temporary HOUSE OF BLUES club was established near Centennial Park in Atlanta for the duration of the Olympics; and also during the 1997 National Football League Super Bowl event in the New Orleans Superdome, during which Opposer sponsored the Half-Time Show, which prominently featured the HOUSE OF BLUES mark and was seen by more than one billion television viewers in over 200 countries worldwide.

14. Opposer continues to attract free media attention frequently with the help of celebrities, personalities, politicians, actors, and musicians.

15. Opposer has also extended its advertising and promotion of the HOUSE OF BLUES mark with its Internet Web site at <http://www.hob.com>, which is accessed daily by thousands of viewers throughout the United States and around the world. The website features advance ticket purchasing; schedules of upcoming events at HOUSE OF BLUES venues; and archives of concerts of past events. The Web site also features promotional material for Opposer' restaurant, bar and nightclub services and the live music featured therein, as well as advertisements for HOUSE OF BLUES branded merchandise sold principally through retail stores adjacent each House of Blues venue.

16. As a result of Opposer's efforts, Opposer has become widely known as a leading provider of restaurant/nightclub services and musical entertainment services. Opposer's HOUSE OF BLUES family of marks has become highly distinctive and famous by virtue of Opposer's lengthy, extensive and nationwide use of said marks in connection with its nationally renowned restaurant/nightclub venues and musical entertainment.

17. Prior to any use by Applicant of the mark HOUSE OF BLUES in connection with the goods recited in application Serial No. 78/311,474, and prior to the filing of said application by Applicant, Opposer adopted and began to use the HOUSE OF BLUES family of marks to identify and distinguish its restaurant/nightclub services and related merchandise and services from those of others.

18. As a result of Opposer's nationwide sales of its high-quality goods and services under the HOUSE OF BLUES family of marks, and Opposer's nationwide advertising and promotion of such goods and services in connection with said mark, said mark has come to exclusively identify Opposer as the source of such goods and services in the minds of the consuming public. Opposer's HOUSE OF BLUES family of marks represents Opposer's

substantial goodwill which has accrued to Opposer by virtue of its widespread and prominent use of said marks for its quality restaurant and nightclub services, pre-recorded music, live musical entertainment, and charitable educational services.

I.

COUNT ONE: LIKELIHOOD OF CONFUSION

19. The allegations of paragraph 2 – 18 above are realleged as if fully set forth herein.

20. Applicant's proposed HOUSE OF BLUES mark, when used as proposed in connection with the goods recited in application Serial No. 78/311,474, is likely to cause confusion, or to cause mistake, or to deceive, as to the source or origin of Applicant's or Opposer's goods and services, or is likely to cause consumers to believe that Opposer sponsors or approves the goods of Applicant when it does not. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to Opposer through its extensive use of the HOUSE OF BLUES mark in connection with its restaurant and nightclub services and related merchandise and related services.

21. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, HOUSE OF BLUES, in connection with the goods recited in application Serial No. 78/311,474, in class 31. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the HOUSE OF BLUES mark for the goods and services set forth hereinabove; and would impair Opposer's continued exclusive right to use said marks in connection with such goods and services.

II.

COUNT TWO: TRADEMARK DILUTION

22. The allegations of paragraph 2 – 21 above are realleged as if fully set forth herein.

23. Opposer has established a business reputation because of its uniformly high quality extensive advertising and sales of its goods and services under the HOUSE OF BLUES mark. Opposer's business reputation has created a distinctive quality in the HOUSE OF BLUES mark. As a result of the distinctiveness of the HOUSE OF BLUES mark and its extensive and widespread use and advertising in connection with Opposer's high-quality goods and services, the HOUSE OF BLUES mark has become famous.

24. Applicant's proposed HOUSE OF BLUES mark, when used as proposed in connection with a Kentucky bluegrass seed blend, and advertising and promotional materials associated therewith, is likely to dilute the distinctive quality of Opposer's HOUSE OF BLUES mark. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to Opposer through its extensive use of the HOUSE OF BLUES mark in connection with its quality restaurant and nightclub services, pre-recorded music, and live musical entertainment services.

25. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, HOUSE OF BLUES, in connection with the goods recited in application Serial No. 78/311,474, in class 31. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the HOUSE OF BLUES mark for the goods and services set forth hereinabove; and would impair the fame and distinctive quality of Opposer's HOUSE OF BLUES family of marks.

WHEREFORE, Opposer prays that the application Serial No. 78/311,474 be denied, and that registration of the mark therein sought for the goods therein specified in Class 31 be denied and refused.

The filing fee in the amount of \$300 as required under 37 C.F.R. §2.6(a)(17) is enclosed herewith.

Respectfully submitted,

HOUSE OF BLUES BRANDS CORP.

Dated: Nov. 17 2004

By: _____

Kirt S. O'Neill

Kirt S. O'Neill
Reg. No. 38,257
Akin Gump Strauss Hauer & Feld LLP
P.O. Box 12870
San Antonio, Texas 78212
Phone: 210.281.7106
Fax: 210.224.2035
E-mail: koneill@akingump.com

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Box TTAB FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Name of Person Signing Certificate: Michele Patterson

Signature: *Michele Patterson*

Date of Mailing: 11/17/04

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Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office
New Cert.

Reg. No. 1,772,628
Registered May 18, 1993
OG Date Sep. 10, 1996

**SERVICE MARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED**

HOUSE OF BLUES

HOUSE OF BLUES BRANDS CORP.
(DELAWARE CORPORATION)
114 MT. AUBURN STREET
CAMBRIDGE, MA 02138, ASSIGNEE OF
TIGRETT, ISAAC B. (UNITED
STATES CITIZEN) LOS ANGELES, CA

FOR: RESTAURANT AND BAR SERV-
ICES, IN CLASS 42 (U.S. CL. 100).
FIRST USE 11-27-1992; IN COMMERCE
11-27-1992.
SER. NO. 74-254,677, FILED 3-12-1992.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Sep. 10, 1996.*

Bruce Lehman

COMMISSIONER OF PATENTS AND TRADEMARKS

about the ONCASE brand drug. Dr. Hoffman further testified that scientific information, technical bulletins and posters were available at respondent's booths. Respondent also has promoted its drug at other meetings and conferences, giving presentations to oncologists and/or scientists in the field of cancer research. Dr. Hoffman testified that the presentations generally attract 50-100 attendees. Dr. Hoffman also testified that respondent's website counted more than 13,000 visits in a recent one-year period.

Although respondent contends that its investment in the ONCASE brand product has been extensive, it is difficult to gauge, in the absence of dollar amounts or other specific information relative to its promotional efforts, the degree to which there has been any detriment. We also lack any testimony or other evidence which would shed light on the effect and success of respondent's promotional efforts. Further, respondent's testimony regarding its appearances at conferences, trade shows and presentations is diminished by the fact that it was promoting other drugs at the same time. For example, exhibit no. 11 to Dr. Hoffman's deposition is a photograph of one of respondent's booths at a trade show; no fewer than four of respondent's other drugs are being promoted under different marks. Thus, in all likelihood, respondent's expenditures in connection with the promotion of its ONCASE brand drug would appear to be little more than what it was spending in any event to promote its other drugs. That is to say, respondent might very well have attended the various trade shows and conferences to promote its other drugs even if its ONCASE brand drug had not been developed. Again, in the absence of details relating to the specific economic prejudice suffered, we are unable to say that respondent has established a meritorious laches defense.

Further, while Dr. Hoffman has authored scientific papers concerning respondent's drug, the drug is hardly ever referred to by its trademark ONCASE; instead, it is called by its scientific name (recombinant methioninase).

In sum, respondent has failed to put forward sufficient evidence of material prejudice to support a finding of laches. Accordingly, we find that respondent's laches defense fails for lack of proof.

Decision: The petition for cancellation grounded on likelihood of confusion is granted. Registration No. 1,987,445 will be cancelled in due course.

House of Blues Brands Corp. v. Sylvia Woods Inc.

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board

Opposition No. 117,309

Decided June 24, 2003

(Nonprecedential)

TRADEMARKS AND UNFAIR TRADE PRACTICES

[1] Registration and its effects — Non-registrable subject matter — Confusing (§ 315.0405)

Infringement; conflicts between marks — Likelihood of confusion — Particular marks — Confusion likely (§ 335.0304.03)

Applicant's use of "House of Soul" mark in connection with musical performances, poetry readings, and other nightclub acts is likely to cause confusion with opposer's "House of Blues" mark, since opposer provides similar entertainment services, as well as restaurant and other services, in several large markets under "House of Blues" mark, which is famous as result of huge amount of advertising, promotion, and business done under mark, since famous mark is afforded greater protection, since applicant's "House of Soul" mark creates commercial impression similar to that of opposer's mark, since applicant's mark closely resembles opposer's mark, and since purchasers of parties' services would exercise relatively low level of care and sophistication, and would likely confuse marks despite subtle distinctions between "blues" and "soul."

Opposition of House of Blues Brands Corp. to application of Sylvia Woods Inc. for registration of "House of Soul" as trademark for entertainment, in form of live musical and

other performances, and restaurant services (serial no. 77/342,413). Opposition sustained; registration refused.

[Editor's Note: The Trademark Trial and Appeal Board has indicated that this opinion is not citable as precedent of the TTAB.]

Kirt S. O'Neill, of Akin, Gump, Strauss, Hauer & Feld, San Antonio, Texas, for opposer.

Van DeWard Woods, Sylvia Woods Inc., for applicant.

Before Cissel, Quinn, and Hairston, administrative trademark judges.

Cissel, J.

On April 15, 1997, applicant, a corporation organized and existing under the laws of the state of New York, filed the above-identified application to register the mark HOUSE OF SOUL on the Principal Register for what were subsequently identified by amendment as "entertainment, namely, live music by musical performing groups, small bands, and singers; comedy performances, poetry readings, lectures and seminars, related to matters of politics, culture, local interest, history, literary and musical," in Class 41, and "restaurant services," in Class 42. The basis for filing the application was applicant's assertion that it possessed a bona fide intention to use the mark in interstate commerce in connection with these services. At the request of the Examining Attorney, applicant disclaimed the exclusive right to use the word "HOUSE" apart from the mark as shown.

On February 22, 2000, a Notice of Opposition was timely filed by House of Blues Brands Corp., a Delaware corporation with offices in Hollywood, California. As grounds for opposition, opposer alleged that, in conjunction with its parent company, HOB Entertainment, Inc., opposer is a renowned provider of restaurant and nightclub services featuring live music which is performed on the premises; that these services are rendered under the mark HOUSE OF BLUES; that these services are rendered under this mark in major United States cities including Cambridge, Los Angeles, New Orleans, Chicago, Orlando, Myrtle Beach and Las Vegas; that opposer has rendered its restaurant/nightclub services under the mark since at least as early as November, 1992; that opposer has registered¹ the

¹ Reg. No. 1,772,628, issued on May 18, 1993.

mark HOUSE OF BLUES for bar and restaurant services; that opposer operates a music recording studio under the mark HOUSE OF BLUES STUDIOS and has registered² that mark for those services; that as early as January, 1995, opposer sponsored and produced nationally broadcast television programs featuring a wide variety of musical entertainment under the mark LIVE FROM THE HOUSE OF BLUES; that opposer registered³ that mark for "entertainment services, namely an on-going television variety series"; that in conjunction with its parent company, opposer uses its HOUSE OF BLUES mark in connection with providing live and pre-recorded musical entertainment over the Internet by the House of Blues website at <http://www.hob.com> and at two related websites; that opposer produces and sells collections of music on cassettes, compact discs and videotapes; that opposer has registered⁴ the mark HOUSE OF BLUES in connection with "pre-recorded audio and videotapes, cassettes, cartridges, compact discs, phonograph records and other sound recordings featuring musics"; that in conjunction with its parent company and affiliates, opposer operates the International HOUSE OF BLUES Foundation, a non-profit educational and cultural center, and has registered⁵ INTERNATIONAL HOUSE OF BLUES FOUNDATION and design for "non-profit educational services, namely providing courses, seminars, lectures and presentations concerning culture and history"; that as a result of its efforts, opposer has become widely known as a leading provider of musical entertainment, both live and pre-recorded, much of which originates from opposer's elaborate restaurant/live music venues and Internet websites; that opposer's HOUSE OF BLUES family of marks has become highly distinctive and famous by virtue of opposer's lengthy, extensive and nationwide use and promotion of its marks in connection with its renowned HOUSE OF BLUES restaurant/live music venues, its production and distribution of live and pre-recorded music and its provision of charitable educational services concerning

² Reg. No. 2,047,856 issued on March 25, 1997.

³ Reg. No. 1,953,059, issued on January 30, 1996; canceled under Section 8.

⁴ Reg. No. 1,933,441, issued on November 7, 1995; affidavit under Section 8 accepted; affidavit under Section 15 acknowledged.

⁵ Reg. No. 2,187,390 issued on September 8, 1998.

culture, history and music; that opposer's HOUSE OF BLUES mark became famous for opposer's restaurant and nightclub services, prerecorded music, live musical entertainment and charitable educational services prior to any adoption or use of the mark HOUSE OF SOUL by applicant; that the mark applicant seeks to register so resembles opposer's famous mark that if applicant used its mark in connection with the services recited in the opposed application, it would be likely to cause confusion, or to cause mistake, or to deceive as to the source or origin of said services; and that, if used in connection with the services set forth in the application, the mark applicant seeks to register is likely to dilute the distinctive quality of opposer's HOUSE OF BLUES mark, which is famous in connection with opposer's restaurant and nightclub services, prerecorded music, live musical entertainment, and charitable education services.

Following a Notice of Default that was subsequently set aside, applicant filed its answer to the Notice of Opposition, denying the essential allegations therein.

A trial was conducted in accordance with the Trademark Rules of Practice. Only opposer, however, took testimony or introduced evidence in this proceeding. Initially, applicant was represented by counsel, but on October 17, 2001, applicant's attorneys withdrew from representing applicant in this proceeding, citing applicant's failure to pay as a reason. Applicant's Chief Executive Officer, Mr. Woods, acted on behalf of his employer from that point forward.

Opposer fully briefed its case, Mr. Woods responded on behalf of applicant, and opposer filed a brief in reply to his response. Neither party requested an oral hearing before the Board.

Opposer's record is extensive. It includes copies of opposer's pleaded registrations, all made of record by a proper Notice of Reliance; applicant's responses to opposer's interrogatories 4, 20 and 30, made of record by opposer's Notice of Reliance; three dictionary definitions and explanations of the meaning and historical development of the words and music genres "blues," "rhythm and blues" and "soul" from *The New Grove Dictionary of Music and Musicians*, made of record by opposer's Notice of Reliance; and the testimonial deposition, with exhibits, of Daniel L.

Fishkin, opposer's senior vice president and general counsel.

Opposer's testimony and evidence establish that the first HOUSE OF BLUES restaurant was opened in a converted house in Harvard Square in Cambridge, Massachusetts in 1982. By the close of its testimony period, opposer was operating eight full-service music-themed restaurant establishments under the mark in the United States. In addition to a dining hall, each has a separate music hall for live music and talent performances and a retail shop selling collateral merchandise such as clothing, glassware, sunglasses, recordings and food products, all sold under opposer's HOUSE OF BLUES mark.

Since 1982, HOUSE OF BLUES restaurant and music venues have opened in New Orleans, Louisiana; West Hollywood, California; Chicago, Illinois; Myrtle Beach, South Carolina; Orlando, Florida; Las Vegas, Nevada and Anaheim, California. Opposer's restaurant/nightclub operations in Florida, California, Illinois, Louisiana and Nevada are located within major tourist attractions in order to increase the size of the audiences. These HOUSE OF BLUES venues are not just restaurants; rather they are elaborate entertainment facilities. The California HOUSE OF BLUES facility, for example, was constructed in 1994 at a cost of more than thirty million dollars. Each HOUSE OF BLUES venue is furnished and decorated to project "a Southern Delta-style blues juke joint theme." In keeping with this theme, opposer's restaurants specialize in southern-style "Delta" cuisine. Each venue features a wide variety of popular music including, but not limited to, blues, urban, hip-hop, rhythm and blues, rock, alternative rock, swing, retro, techno, gospel and electronic music. Each HOUSE OF BLUES venue features a high tech sound stage and state-of-the-art lighting so that the nationally known bands and music stars who frequently perform at the HOUSE OF BLUES have a facility which meets their standards. Some HOUSE OF BLUES venues also feature secondary stages, which provide opportunities for local bands and newly discovered performers to showcase their talents.

In addition to the core restaurant/nightclub business which opposer conducts under its HOUSE OF BLUES mark, opposer also promotes and produces live concerts at large outdoor arenas and amphitheaters, produces re-

corded music and produces pay-per-view online concert performances. Opposer also produces a nationally syndicated weekly radio program called "The HOUSE OF BLUES Radio Hour," operates HOUSE OF BLUES Hotels, and conducts a number of charitable activities, all under the HOUSE OF BLUES mark.

Opposer uses its HOUSE OF BLUES mark to promote approximately twenty major concerts each year and to promote live music concerts at venues ranging from small nightclubs to twenty-thousand-seat amphitheaters. Opposer also promotes concert tours by different musical groups under the HOUSE OF BLUE mark.

Opposer's HOUSE OF BLUES music studio recording business produces and distributes compact discs under the HOUSE OF BLUES mark. Opposer's website features live pay-per-view online concert performances, advance ticket purchasing, schedules of upcoming events at HOUSE OF BLUES venues and archived recordings of concerts. Opposer's HOUSE OF BLUES Radio Hour program began in 1995, and now reaches approximately 125 United States markets. In the mid-1990s, opposer aired a television show called "Live From the HOUSE OF BLUES," which reached thousands of cable customers on the Turner Network. Opposer's hotel operations under its HOUSE OF BLUES mark include a 367-room HOUSE OF BLUES hotel in Chicago adjacent to the HOUSE OF BLUES restaurant there and the 100-room "HOUSE OF BLUES" hotel floor in the Las Vegas Mandalay Bay resort. The rooms on the HOUSE OF BLUES hotel floor are decorated in a style similar to that used in applicant's HOUSE OF BLUES restaurant/music venues.

The House of Blues Foundation is a non-profit charity which promotes education, diversity and racial harmony through music, art and culture. The foundation teaches children the history of the blues and other music genres.

Opposer has extensively promoted its core and its non-core businesses under its HOUSE OF BLUES mark in many ways, including the Internet, radio, television, newspapers, magazines, music festival programs, posters, flyers, handouts and direct mailings. Opposer promotes its HOUSE OF BLUES services and products by sponsoring televised sporting events, high-visibility celebrity events, and

music and folk art festivals. Since 1997, opposer has spent over forty-two million dollars advertising and promoting its HOUSE OF BLUES goods and services.

The record establishes beyond question that opposer's HOUSE OF BLUES mark is famous. This fact is clearly reflected in published articles made of record in connection with Mr. Fishman's testimony. In addition to the tremendous expenditures for promotional activity, the record reflects that opposer's goods and services sold under its HOUSE OF BLUES mark have resulted in gross revenues of almost eight hundred million dollars from 1997 through May of 2001. In 2000, for example, four million people visited opposer's HOUSE OF BLUES restaurant/entertainment establishments and another six and a half million people purchased tickets to opposer's HOUSE OF BLUES concerts. A customer survey which opposer had conducted in 1999 showed that forty percent of respondents in Chicago and New Orleans named opposer's clubs as their favorite place to go to hear live music being performed. No competitor received more than a ten percent response. Well known performers and other famous people, including former President Clinton, former Vice President Gore, Dan Aykroyd, Bob Dylan, Stevie Wonder, Paul Simon and B.B. King, have appeared at opposer's HOUSE OF BLUES venues, and many of these events have been widely publicized.

As noted above, applicant did not take any testimony or introduce any evidence in this proceeding. The information we have about applicant's operations and its attempt to register the mark HOUSE OF SOUL comes from the application itself and from applicant's responses to opposer's interrogatories, made of record by opposer.⁶

According to applicant's response to Interrogatory No. 20, Mr. Woods visited opposer's HOUSE OF BLUES operation in Cambridge Massachusetts in 1997. In July of that year, applicant claims to have started using the HOUSE OF SOUL mark at a banquet facility

⁶ Neither the rambling narrative submitted as applicant's brief on the case nor the exhibits attached to it are evidence in this opposition proceeding. If applicant had wanted to introduce evidence or take testimony, which would of course have been necessary in order to establish a factual basis for any of its allegations or arguments, it could have done so during its designated testimony period. Applicant did not do so.

adjacent to applicant's restaurant in Harlem, New York. For the next two years, applicant claims to have offered open-microphone nights for musical performances each week under that mark. From that time through November, 2000, applicant sponsored approximately ten musical performances and poetry readings under the mark it seeks to register. Although the application is based on the assertion that applicant intends to use the mark in connection with its services, application's response to Interrogatory No. 4 indicated that applicant claims to have actually used its mark in connection with musical performances and restaurant services since 1997.

[1] In view of opposer's obvious priority of use and ownership of registrations for its mark, the issues before the Board in this opposition proceeding are whether opposer's HOUSE OF BLUES mark is famous; whether applicant's mark, HOUSE OF SOUL, as used in connection with the services specified in the application, so resembles opposer's mark that it is likely to cause confusion, mistake or to deceive; and whether applicant's mark should be refused registration because when it is used in connection with the services set forth in the application, it is likely to cause dilution within the meaning of the Lanham Act. For the reasons set forth below, we hold that opposer's mark is famous in connection with opposer's restaurant and musical entertainment services and that applicant's mark so resembles it that when applicant uses its mark in connection with the services recited in the application, confusion is likely.

As noted above, the record clearly establishes that opposer's HOUSE OF BLUES mark is famous in connection with opposer's services. The amount and scope of advertising, promotion, and business done under opposer's mark is huge by almost any standard. As opposer points out, it exceeds what was deemed sufficient to establish that HARD ROCK CAFE, the mark of one of opposer's primary competitors, is a famous mark in this field of commerce. See: *Hard Rock Cafe Int'l (USA) Inc. v. Elsea*, 56 USPQ2d 1504, 1509-1510 (TTAB 2000).

Fame is one of the thirteen factors identified by the predecessor to our primary reviewing court in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). When a mark is famous, it is accorded a broader scope of protection than would be

the case if it were not famous. *Bose Corp. v. QSC Audio Products, Inc.*, 293 F.3d 1367, 63 USPQ2d 1303 (Fed. Cir. 2002); *Recot, Inc. v. Becton*, 214 F.3d 1322, 54 USPQ2d 1894 (Fed. Cir. 2000). Competitors must steer clear of the "long shadow" cast by famous marks. *Kenner Parker Toys Inc. v. Rose Art Industries, Inc.*, 963 F.2d 350, 353, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992).

"When marks would appear on virtually identical goods or services, the degree of similarity between the marks necessary to support a conclusion of likely confusion declines." *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 23 USPQ 1698, 1700 (Fed. Cir. 1982). In the instant case, confusion is likely because applicant's mark creates a commercial impression which is similar to the one engendered by opposer's mark, and the services set forth in the application are identical to those opposer renders under its famous mark.

Turning first to a comparison of the services, we note that we must compare the respective services of the parties as they are recited in the application and the registration, respectively, without limitations or restrictions not reflected therein. *Toys "R" Us, Inc. v. Lamps R Us*, 219 USPQ 340 (TTAB 1983). Applicant recites its services in terms of musical entertainment and restaurant services. Opposer has used and registered its mark for identical services.

Applicant's mark closely resembles opposer's famous mark. Although there are arguably subtle distinctions between the musical genres named in the marks, purchasers of opposer's goods and services and applicant's services, ordinary consumers buying amusement without a particularly high level of care or sophistication, are likely to confuse the two marks. The record includes no evidence of anyone other than opposer using HOUSE OF with other words in connection with goods or services related to those in connection with which opposer uses its HOUSE OF BLUES mark. Mr. Fishkin, whose business it is to know about such an occurrence if it ever happened, was not aware of any third party using such a mark. Significantly, applicant's recitation of services is not limited to "soul music," but rather encompasses the blues within the term "live music." Moreover, the record shows that opposer presents a wide variety of types of music under its mark.

Opposer asserts that because Mr. Woods visited opposer's Cambridge HOUSE OF BLUES venue in 1997 and began using and applied to register its HOUSE OF SOUL mark that same year, the Board should infer that applicant intended to trade off the goodwill opposer has built up in its famous mark. Based on the record before us, however, we cannot reach that conclusion. To begin with, it is unclear whether Mr. Davis' visits to the Cambridge HOUSE OF BLUES preceded applicant's adoption of its mark. Moreover, even if it had, we would have difficulty inferring from that fact that applicant's selection of its mark at that time was with the intent of evoking opposer's mark. In any event, in view of the fame of opposer's mark, the similarity of applicant's mark to it, and the identity of the services rendered under the two marks, we do not need to make such a finding in order to hold that confusion is likely within the meaning of Section 2(d) the Lanham Act.

We therefore need not reach the pleaded claim of dilution under Section 43(c) of the Act.

In summary, the record supports opposer's priority and its pleaded claims of fame and likelihood of confusion. Applicant provided absolutely no evidence or testimony to the contrary.

DECISION: The opposition is sustained and registration to applicant is refused under Section 2(d) of the Lanham Act.

Ex parte Beuther

U.S. Patent and Trademark Office Board of Patent Appeals and Interferences

No. 2003-1818

Decided December 19, 2003

(Unpublished)

PATENTS

[1] Patentability/Validity — Anticipation — Identity of elements (§ 115.0704)

Patentability/Validity — Obviousness — Relevant prior art — Particular inven- tions (§ 115.0903.03)

Patent examiner's rejections of claims for creped tissue sheet as anticipated by, and un-

patentable over, single prior art reference will not be sustained, since application claims require web to be adhered to creping drum when 20 to 60 percent dry, whereas web of reference is adhered to creping drum when at least 80 percent dry, since this difference casts considerable doubt on examiner's determination that features required by limitations of claims in application are inherent in cited reference, and that features obviously would have been provided by prior art process, since reference expressly teaches that creping blade imparts series of fine fold lines to portions of web adhered to creping drum, and since presence of fold or crepe lines belies proposition that web of prior art process inherently or obviously comprises "Yankee" side surface having smooth appearance that is substantially free of discernable crepe pattern, or that has no crepe pattern discernable to naked eye, as required by application claims.

[2] Patentability/Validity — Anticipation — Identity of elements (§ 115.0704)

Patentability/Validity — Obviousness — Relevant prior art — Particular inven- tions (§ 115.0903.03)

Patent examiner's rejection of claims for creped tissue sheet as anticipated by prior art patent disclosing tissue with soft and smooth surface will not be sustained, since examiner relied on specific example of two-layer tissue in prior patent that did not meet basis weight limitation in application claims, combined with general basis weight ranges for two-layer tissues and broadly-described three-layer design, and since anticipation is not established if it is necessary to pick, choose, and combine various portions of disclosure, not directly related to each other by teachings of reference, in order to find that application claim reads on that reference; examiner's rejection of claims as unpatentable over same reference is also reversed, since rejection is based on "eclectic" combination of portions of reference, suggested by hindsight knowledge impermissibly derived from applicants' disclosure.

Patent application of Paul D. Beuther, Richard J. Kamps, and Kurt W. Ostermeier (no. 09/223,602). Applicants appealed from final rejection of claims, and patent examiner reopened prosecution, entered superseding re-

Int. Cl.: 9

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

United States Patent and Trademark Office **Reg. No. 1,933,441**
Registered Nov. 7, 1995

**TRADEMARK
PRINCIPAL REGISTER**

HOUSE OF BLUES

HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
114 MT. AUBURN STREET
CAMBRIDGE, MA 02138 ASSIGNEE OF TI-
GRET, ISAAC B. (UNITED STATES CITI-
ZEN) LOS ANGELES, CA 90049

FOR: PRERECORDED AUDIO AND VIDEO
TAPES, CASSETTES, CARTRIDGES, COM-
PACT DISCS, PHONOGRAPH RECORDS AND
OTHER SOUND AND VIDEO RECORDINGS

FEATURING MUSIC, IN CLASS 9 (U.S. CLS. 21,
23, 26, 36 AND 38).

FIRST USE 4-7-1995; IN COMMERCE
4-7-1995.

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

SN 74-313,052, FILED 9-11-1992.

IRENE D. WILLIAMS, EXAMINING ATTOR-
NEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,187,390

United States Patent and Trademark Office

Registered Sep. 8, 1998

**SERVICE MARK
PRINCIPAL REGISTER**


**INTERNATIONAL
HOUSE
OF
BLUES
FOUNDATION**

HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
8439 SUNSET BOULEVARD, SUITE 107
WEST HOLLYWOOD, CA 90069

FOR: NON-PROFIT EDUCATIONAL SERV-
ICES, NAMELY, PROVIDING COURSES, SEMI-
NARS, LECTURES AND PRESENTATIONS
CONCERNING CULTURE AND HISTORY , IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 3-0-1993; IN COMMERCE
3-0-1993.

OWNER OF U.S. REG. NOS. 1,722,628, 1,891,179
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "INTERNATIONAL FOUNDA-
TION", APART FROM THE MARK AS SHOWN.

SER. NO. 75-275,034, FILED 4-12-1997.

AMOS T. MATTHEWS, JR., EXAMINING AT-
TORNEY

AKIN. GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

KIRT S. O'NEILL
210.281.7106/fax: 210.224.2035
koneill@akingump.com

November 17, 2004

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *House of Blues Brands Corp. v. Proseeds Marketing, Inc.*
Mark: HOUSE OF BLUES
Serial No. 78/311,474
Attorney Docket No. 064163.0062

Dear Madam:

Enclosed please find the following for filing in the above-identified matter:

- Notice of Opposition (Original and two copies);
- A check in the amount of \$300.00 for the filing fee; and
- A return receipt acknowledgment postcard.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment in the fees indicated above to Deposit Account No. 01-0477.

Respectfully submitted,



Kirt S. O'Neill

Enclosures



11-22-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

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

| | | |
|------------------------------|---|-----------------------|
| House of Blues Brands Corp., | § | Serial No. 78/311,474 |
| | § | |
| Opposer, | § | |
| | § | Mark: HOUSE OF BLUES |
| v. | § | |
| | § | |
| Proseeds Marketing, Inc., | § | Opposition No. _____ |
| | § | |
| Applicant. | § | |

NOTICE OF OPPOSITION

HOUSE OF BLUES BRANDS CORP., a Delaware corporation having an office at 6255 Sunset Boulevard, 16th Floor, Hollywood, California 90028, believes that it will be damaged by registration of the mark shown in application Serial No. 78/311,474 in International Class 31, and hereby opposes same.

As grounds for opposition, it is alleged:

1. Applicant seeks registration on the Principal Register of the word mark, HOUSE OF BLUES, in International Class 31 for "Kentucky bluegrass grass seed blend." Said efforts by Applicant are evidenced by the publication of said mark in the Trademark Office Official Gazette on page TM 392 of the July 20, 2004 issue.

2. On information and belief, Applicant's application for the mark HOUSE OF BLUES was filed based upon an intent to use the mark in connection with the aforementioned goods.

3. Opposer, in conjunction with its parent company, HOB Entertainment, Inc., is a nationally and internationally renowned provider of restaurant and nightclub services featuring live music provided on the restaurant premises. Said services are offered under the mark, HOUSE OF BLUES.

4. Opposer operates prominent restaurant/nightclub establishments under the mark, HOUSE OF BLUES, in major U.S. cities, including Cambridge, Los Angeles, New Orleans, Chicago, Orlando, Myrtle Beach and Las Vegas. Opposer has offered its restaurant/nightclub services since at least as early as November 1992. Opposer has the exclusive right to use HOUSE OF BLUES as a service mark for bar and restaurant services, in Class 42, as evidenced by Opposer's U.S. Registration No. 1,772,628, obtained on May 18, 1993, a true and correct copy of which is attached hereto as Exhibit "A", which is incorporated hereby by referenced for all purposes.

5. HOB Brands is the record owner of U.S. Reg. No. 1,772,628. The original applicant, Isaac B. Tigrett ("Tigrett"), assigned the mark and application (serial no. 74/254,677) to Opposer (f/k/a House of Blues Trademark Company) in a written assignment effective November 16, 1992. The Assignment Branch of the U.S. Patent and Trademark Office recorded a copy of the assignment from Tigrett to Opposer on August 17, 1993 at Reel/Frame 1019/0376.

6. The HOUSE OF BLUES mark is protected by numerous other registrations on the Principal Register of the U.S. Patent and Trademark Office, including U.S. Reg. Nos. 1,772,628 and 2,024,199 and 1,874,712 and 2,739,958 and 2,550,199 and 2,507,466 and 2,457,890 and 2,507,467 and 2,507,798 and 2,723,813 and 1,891,179 and 1,938,673 and 1,940,915 and 2,638,573 and 2,413,015 and 2,457,988 and 2,474,439 and 2,474,442 and 2,458,649 and 2,571,011 and 2,571,010 and 2,370,089 and 2,343,876 and 2,467,076 and 2,187,390 and 2,704,410. Opposer is the record owner of each of the foregoing registrations.

7. The HOUSE OF BLUES mark has been adjudicated to be a "famous" mark within the meaning of 15 U.S.C. § 1125(c) by the Trademark Trial and Appeal Board, the administrative tribunal within the U.S. Patent and Trademark Office. A true and correct copy of

the TTAB decision finding the HOUSE OF BLUES mark to be “famous” is attached hereto as Exhibit “B” (*House of Blues Brands Corp. v. Sylvia Woods, Inc.*, 71 USPQ2d 1308).

8. Opposer, in conjunction with its parent company and affiliates, also produces and markets collections of music on pre-recorded audio cassettes, compact discs and videotapes. Such pre-recorded music has been sold and distributed nationwide by Opposer since at least as early as April 1995. Opposer has the exclusive right to use HOUSE OF BLUES as a trademark for pre-recorded audio and video musical performances, as evidenced by Opposer’s U.S. Registration No. 1,933,441, a true and correct copy of which is attached hereto as Exhibit “C”.

9. Opposer, in conjunction with its parent company and affiliates, also operates the International HOUSE OF BLUES Foundation (the “Foundation”), a non-profit educational and cultural center for educating the public about culture and history, and music’s influence thereon. The Foundation carries out its charitable education mission by conducting seminars, lectures and presentations on topics of culture and history. The Foundation has been in continuous operation since at least as early as March 1993. Opposer has the exclusive right to use INTERNATIONAL HOUSE OF BLUES FOUNDATION (plus design) as a trademark for non-profit educational services, namely, providing courses, seminars, lectures and presentations concerning culture and history, as evidenced by Opposer’s U.S. Registration No. 2,187,390, a true and correct copy of which is attached hereto as Exhibit “D”.

10. Opposer, in conjunction with its parent company and affiliates, also promotes hundreds of major concert productions a year at more than twenty House of Blues-controlled venues such as the Universal Amphitheater in the Los Angeles Universal Studios theme park, San Diego’s Coors Amphitheater, “The Gorge” in Washington state, Denver’s “Red Rocks,” and Atlanta’s “Lakewood Amphitheater.” Opposer also promotes live musical concerts in third-party

non-owned venues throughout the United States, ranging from small local nightclubs to 20,000 person amphitheaters.

11. Opposer, in conjunction with its parent company and affiliates, also promotes its endeavors through the “House of Blues Radio Hour,” a weekly radio show broadcast internationally over the CBS Radio Network and the Armed Forces Radio Network. The “House of Blues Radio Hour” reaches approximately 125 markets in the United States.

12. In addition to extensive national paid advertising promoting Opposer’s HOUSE OF BLUES venues, national and international media have given Opposer extensive exposure. Specifically, Opposer has been featured in The Wall Street Journal, Southern Living, Forbes, USA Today, In Style, Daily Variety, People, Billboard, The Los Angeles Times, The Dallas Morning News, and numerous other newspapers and periodicals. Opposer has also received positive reviews in several small-town newspapers far from Opposer’s venues.

13. In addition, Opposer has received television exposure on Entertainment This Week, Entertainment Tonight, E! Television, MTV, and on other television shows and networks. Opposer received significant television exposure during the 1996 Olympic Games in Atlanta, when a temporary HOUSE OF BLUES club was established near Centennial Park in Atlanta for the duration of the Olympics; and also during the 1997 National Football League Super Bowl event in the New Orleans Superdome, during which Opposer sponsored the Half-Time Show, which prominently featured the HOUSE OF BLUES mark and was seen by more than one billion television viewers in over 200 countries worldwide.

14. Opposer continues to attract free media attention frequently with the help of celebrities, personalities, politicians, actors, and musicians.

15. Opposer has also extended its advertising and promotion of the HOUSE OF BLUES mark with its Internet Web site at <http://www.hob.com>, which is accessed daily by thousands of viewers throughout the United States and around the world. The website features advance ticket purchasing; schedules of upcoming events at HOUSE OF BLUES venues; and archives of concerts of past events. The Web site also features promotional material for Opposer's restaurant, bar and nightclub services and the live music featured therein, as well as advertisements for HOUSE OF BLUES branded merchandise sold principally through retail stores adjacent each House of Blues venue.

16. As a result of Opposer's efforts, Opposer has become widely known as a leading provider of restaurant/nightclub services and musical entertainment services. Opposer's HOUSE OF BLUES family of marks has become highly distinctive and famous by virtue of Opposer's lengthy, extensive and nationwide use of said marks in connection with its nationally renowned restaurant/nightclub venues and musical entertainment.

17. Prior to any use by Applicant of the mark HOUSE OF BLUES in connection with the goods recited in application Serial No. 78/311,474, and prior to the filing of said application by Applicant, Opposer adopted and began to use the HOUSE OF BLUES family of marks to identify and distinguish its restaurant/nightclub services and related merchandise and services from those of others.

18. As a result of Opposer's nationwide sales of its high-quality goods and services under the HOUSE OF BLUES family of marks, and Opposer's nationwide advertising and promotion of such goods and services in connection with said mark, said mark has come to exclusively identify Opposer as the source of such goods and services in the minds of the consuming public. Opposer's HOUSE OF BLUES family of marks represents Opposer's

substantial goodwill which has accrued to Opposer by virtue of its widespread and prominent use of said marks for its quality restaurant and nightclub services, pre-recorded music, live musical entertainment, and charitable educational services.

I.

COUNT ONE: LIKELIHOOD OF CONFUSION

19. The allegations of paragraph 2 – 18 above are realleged as if fully set forth herein.

20. Applicant's proposed HOUSE OF BLUES mark, when used as proposed in connection with the goods recited in application Serial No. 78/311,474, is likely to cause confusion, or to cause mistake, or to deceive, as to the source or origin of Applicant's or Opposer's goods and services, or is likely to cause consumers to believe that Opposer sponsors or approves the goods of Applicant when it does not. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to Opposer through its extensive use of the HOUSE OF BLUES mark in connection with its restaurant and nightclub services and related merchandise and related services.

21. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, HOUSE OF BLUES, in connection with the goods recited in application Serial No. 78/311,474, in class 31. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the HOUSE OF BLUES mark for the goods and services set forth hereinabove; and would impair Opposer's continued exclusive right to use said marks in connection with such goods and services.

II.

COUNT TWO: TRADEMARK DILUTION

22. The allegations of paragraph 2 – 21 above are realleged as if fully set forth herein.

23. Opposer has established a business reputation because of its uniformly high quality extensive advertising and sales of its goods and services under the HOUSE OF BLUES mark. Opposer's business reputation has created a distinctive quality in the HOUSE OF BLUES mark. As a result of the distinctiveness of the HOUSE OF BLUES mark and its extensive and widespread use and advertising in connection with Opposer's high-quality goods and services, the HOUSE OF BLUES mark has become famous.

24. Applicant's proposed HOUSE OF BLUES mark, when used as proposed in connection with a Kentucky bluegrass seed blend, and advertising and promotional materials associated therewith, is likely to dilute the distinctive quality of Opposer's HOUSE OF BLUES mark. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to Opposer through its extensive use of the HOUSE OF BLUES mark in connection with its quality restaurant and nightclub services, pre-recorded music, and live musical entertainment services.

25. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, HOUSE OF BLUES, in connection with the goods recited in application Serial No. 78/311,474, in class 31. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the HOUSE OF BLUES mark for the goods and services set forth hereinabove; and would impair the fame and distinctive quality of Opposer's HOUSE OF BLUES family of marks.

WHEREFORE, Opposer prays that the application Serial No. 78/311,474 be denied, and that registration of the mark therein sought for the goods therein specified in Class 31 be denied and refused.

The filing fee in the amount of \$300 as required under 37 C.F.R. §2.6(a)(17) is enclosed herewith.

Respectfully submitted,

HOUSE OF BLUES BRANDS CORP.

Dated: Nov. 17, 2004

By: Kirt S. O'Neill

Kirt S. O'Neill
Reg. No. 38,257
Akin Gump Strauss Hauer & Feld LLP
P.O. Box 12870
San Antonio, Texas 78212
Phone: 210.281.7106
Fax: 210.224.2035
E-mail: koneill@akingump.com

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Box TTAB FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Name of Person Signing Certificate: Michele Patterson

Signature: Michele Patterson

Date of Mailing: 11/17/04

17

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office
New Cert.

Reg. No. 1,772,628
Registered May 18, 1993
OG Date Sep. 10, 1996

**SERVICE MARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED**

HOUSE OF BLUES

HOUSE OF BLUES BRANDS CORP.
(DELAWARE CORPORATION)
114 MT. AUBURN STREET
CAMBRIDGE, MA 02138, ASSIGNEE OF
TIGRETT, ISAAC B. (UNITED
STATES CITIZEN) LOS ANGELES, CA

FOR: RESTAURANT AND BAR SERV-
ICES, IN CLASS 42 (U.S. CL. 100).

FIRST USE 11-27-1992; IN COMMERCE
11-27-1992.

SER. NO. 74-254,677, FILED 3-12-1992.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Sep. 10, 1996.*

Bruce Lehman

COMMISSIONER OF PATENTS AND TRADEMARKS

about the ONCASE brand drug. Dr. Hoffman further testified that scientific information, technical bulletins and posters were available at respondent's booths. Respondent also has promoted its drug at other meetings and conferences, giving presentations to oncologists and/or scientists in the field of cancer research. Dr. Hoffman testified that the presentations generally attract 50-100 attendees. Dr. Hoffman also testified that respondent's website counted more than 13,000 visits in a recent one-year period.

Although respondent contends that its investment in the ONCASE brand product has been extensive, it is difficult to gauge, in the absence of dollar amounts or other specific information relative to its promotional efforts, the degree to which there has been any detriment. We also lack any testimony or other evidence which would shed light on the effect and success of respondent's promotional efforts. Further, respondent's testimony regarding its appearances at conferences, trade shows and presentations is diminished by the fact that it was promoting other drugs at the same time. For example, exhibit no. 11 to Dr. Hoffman's deposition is a photograph of one of respondent's booths at a trade show; no fewer than four of respondent's other drugs are being promoted under different marks. Thus, in all likelihood, respondent's expenditures in connection with the promotion of its ONCASE brand drug would appear to be little more than what it was spending in any event to promote its other drugs. That is to say, respondent might very well have attended the various trade shows and conferences to promote its other drugs even if its ONCASE brand drug had not been developed. Again, in the absence of details relating to the specific economic prejudice suffered, we are unable to say that respondent has established a meritorious laches defense.

Further, while Dr. Hoffman has authored scientific papers concerning respondent's drug, the drug is hardly ever referred to by its trademark ONCASE; instead, it is called by its scientific name (recombinant methioninase).

In sum, respondent has failed to put forward sufficient evidence of material prejudice to support a finding of laches. Accordingly, we find that respondent's laches defense fails for lack of proof.

Decision: The petition for cancellation grounded on likelihood of confusion is granted. Registration No. 1,987,445 will be cancelled in due course.

House of Blues Brands Corp. v. Sylvia Woods Inc.

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board

Opposition No. 117,309

Decided June 24, 2003

(Nonprecedential)

TRADEMARKS AND UNFAIR TRADE PRACTICES

[1] Registration and its effects — Non-registrable subject matter — Confusing (§ 315.0405)

Infringement; conflicts between marks — Likelihood of confusion — Particular marks — Confusion likely (§ 335.0304.03)

Applicant's use of "House of Soul" mark in connection with musical performances, poetry readings, and other nightclub acts is likely to cause confusion with opposer's "House of Blues" mark, since opposer provides similar entertainment services, as well as restaurant and other services, in several large markets under "House of Blues" mark, which is famous as result of huge amount of advertising, promotion, and business done under mark, since famous mark is afforded greater protection, since applicant's "House of Soul" mark creates commercial impression similar to that of opposer's mark, since applicant's mark closely resembles opposer's mark, and since purchasers of parties' services would exercise relatively low level of care and sophistication, and would likely confuse marks despite subtle distinctions between "blues" and "soul."

Opposition of House of Blues Brands Corp. to application of Sylvia Woods Inc. for registration of "House of Soul" as trademark for entertainment, in form of live musical and

other performances, and restaurant services (serial no. 77/342,413). Opposition sustained; registration refused.

[Editor's Note: The Trademark Trial and Appeal Board has indicated that this opinion is not citable as precedent of the TTAB.]

Kirt S. O'Neill, of Akin, Gump, Strauss, Hauer & Feld, San Antonio, Texas, for opposer.

Van DeWard Woods, Sylvia Woods Inc., for applicant.

Before Cissel, Quinn, and Hairston, administrative trademark judges.

Cissel, J.

On April 15, 1997, applicant, a corporation organized and existing under the laws of the state of New York, filed the above-identified application to register the mark HOUSE OF SOUL on the Principal Register for what were subsequently identified by amendment as "entertainment, namely, live music by musical performing groups, small bands, and singers; comedy performances, poetry readings, lectures and seminars, related to matters of politics, culture, local interest, history, literary and musical," in Class 41, and "restaurant services," in Class 42. The basis for filing the application was applicant's assertion that it possessed a bona fide intention to use the mark in interstate commerce in connection with these services. At the request of the Examining Attorney, applicant disclaimed the exclusive right to use the word "HOUSE" apart from the mark as shown.

On February 22, 2000, a Notice of Opposition was timely filed by House of Blues Brands Corp., a Delaware corporation with offices in Hollywood, California. As grounds for opposition, opposer alleged that, in conjunction with its parent company, HOB Entertainment, Inc., opposer is a renowned provider of restaurant and nightclub services featuring live music which is performed on the premises; that these services are rendered under the mark HOUSE OF BLUES; that these services are rendered under this mark in major United States cities including Cambridge, Los Angeles, New Orleans, Chicago, Orlando, Myrtle Beach and Las Vegas; that opposer has rendered its restaurant/nightclub services under the mark since at least as early as November, 1992; that opposer has registered¹ the

¹ Reg. No. 1,772,628, issued on May 18, 1993.

mark HOUSE OF BLUES for bar and restaurant services; that opposer operates a music recording studio under the mark HOUSE OF BLUES STUDIOS and has registered² that mark for those services; that as early as January, 1995, opposer sponsored and produced nationally broadcast television programs featuring a wide variety of musical entertainment under the mark LIVE FROM THE HOUSE OF BLUES; that opposer registered³ that mark for "entertainment services, namely an on-going television variety series"; that in conjunction with its parent company, opposer uses its HOUSE OF BLUES mark in connection with providing live and pre-recorded musical entertainment over the Internet by the House of Blues website at <http://www.hob.com> and at two related websites; that opposer produces and sells collections of music on cassettes, compact discs and videotapes; that opposer has registered⁴ the mark HOUSE OF BLUES in connection with "pre-recorded audio and videotapes, cassettes, cartridges, compact discs, phonograph records and other sound recordings featuring musics"; that in conjunction with its parent company and affiliates, opposer operates the International HOUSE OF BLUES Foundation, a non-profit educational and cultural center, and has registered⁵ INTERNATIONAL HOUSE OF BLUES FOUNDATION and design for "non-profit educational services, namely providing courses, seminars, lectures and presentations concerning culture and history"; that as a result of its efforts, opposer has become widely known as a leading provider of musical entertainment, both live and pre-recorded, much of which originates from opposer's elaborate restaurant/live music venues and Internet websites; that opposer's HOUSE OF BLUES family of marks has become highly distinctive and famous by virtue of opposer's lengthy, extensive and nationwide use and promotion of its marks in connection with its renowned HOUSE OF BLUES restaurant/live music venues, its production and distribution of live and pre-recorded music and its provision of charitable educational services concerning

² Reg. No. 2,047,856 issued on March 25, 1997.

³ Reg. No. 1,953,059, issued on January 30, 1996; canceled under Section 8.

⁴ Reg. No. 1,933,441, issued on November 7, 1995; affidavit under Section 8 accepted; affidavit under Section 15 acknowledged.

⁵ Reg. No. 2,187,390 issued on September 8, 1998.

culture, history and music; that opposer's HOUSE OF BLUES mark became famous for opposer's restaurant and nightclub services, prerecorded music, live musical entertainment and charitable educational services prior to any adoption or use of the mark HOUSE OF SOUL by applicant; that the mark applicant seeks to register so resembles opposer's famous mark that if applicant used its mark in connection with the services recited in the opposed application, it would be likely to cause confusion, or to cause mistake, or to deceive as to the source or origin of said services; and that, if used in connection with the services set forth in the application, the mark applicant seeks to register is likely to dilute the distinctive quality of opposer's HOUSE OF BLUES mark, which is famous in connection with opposer's restaurant and nightclub services, prerecorded music, live musical entertainment, and charitable education services.

Following a Notice of Default that was subsequently set aside, applicant filed its answer to the Notice of Opposition, denying the essential allegations therein.

A trial was conducted in accordance with the Trademark Rules of Practice. Only opposer, however, took testimony or introduced evidence in this proceeding. Initially, applicant was represented by counsel, but on October 17, 2001, applicant's attorneys withdrew from representing applicant in this proceeding, citing applicant's failure to pay as a reason. Applicant's Chief Executive Officer, Mr. Woods, acted on behalf of his employer from that point forward.

Opposer fully briefed its case, Mr. Woods responded on behalf of applicant, and opposer filed a brief in reply to his response. Neither party requested an oral hearing before the Board.

Opposer's record is extensive. It includes copies of opposer's pleaded registrations, all made of record by a proper Notice of Reliance; applicant's responses to opposer's interrogatories 4, 20 and 30, made of record by opposer's Notice of Reliance; three dictionary definitions and explanations of the meaning and historical development of the words and music genres "blues," "rhythm and blues" and "soul" from *The New Grove Dictionary of Music and Musicians*, made of record by opposer's Notice of Reliance; and the testimonial deposition, with exhibits, of Daniel L.

Fishkin, opposer's senior vice president and general counsel.

Opposer's testimony and evidence establish that the first HOUSE OF BLUES restaurant was opened in a converted house in Harvard Square in Cambridge, Massachusetts in 1982. By the close of its testimony period, opposer was operating eight full-service music-themed restaurant establishments under the mark in the United States. In addition to a dining hall, each has a separate music hall for live music and talent performances and a retail shop selling collateral merchandise such as clothing, glassware, sunglasses, recordings and food products, all sold under opposer's HOUSE OF BLUES mark.

Since 1982, HOUSE OF BLUES restaurant and music venues have opened in New Orleans, Louisiana; West Hollywood, California; Chicago, Illinois; Myrtle Beach, South Carolina; Orlando, Florida; Las Vegas, Nevada and Anaheim, California. Opposer's restaurant/nightclub operations in Florida, California, Illinois, Louisiana and Nevada are located within major tourist attractions in order to increase the size of the audiences. These HOUSE OF BLUES venues are not just restaurants; rather they are elaborate entertainment facilities. The California HOUSE OF BLUES facility, for example, was constructed in 1994 at a cost of more than thirty million dollars. Each HOUSE OF BLUES venue is furnished and decorated to project "a Southern Delta-style blues juke joint theme." In keeping with this theme, opposer's restaurants specialize in southern-style "Delta" cuisine. Each venue features a wide variety of popular music including, but not limited to, blues, urban, hip-hop, rhythm and blues, rock, alternative rock, swing, retro, techno, gospel and electronic music. Each HOUSE OF BLUES venue features a high tech sound stage and state-of-the-art lighting so that the nationally known bands and music stars who frequently perform at the HOUSE OF BLUES have a facility which meets their standards. Some HOUSE OF BLUES venues also feature secondary stages, which provide opportunities for local bands and newly discovered performers to showcase their talents.

In addition to the core restaurant/nightclub business which opposer conducts under its HOUSE OF BLUES mark, opposer also promotes and produces live concerts at large outdoor arenas and amphitheaters, produces re-

corded music and produces pay-per-view online concert performances. Opposer also produces a nationally syndicated weekly radio program called "The HOUSE OF BLUES Radio Hour," operates HOUSE OF BLUES Hotels, and conducts a number of charitable activities, all under the HOUSE OF BLUES mark.

Opposer uses its HOUSE OF BLUES mark to promote approximately twenty major concerts each year and to promote live music concerts at venues ranging from small nightclubs to twenty-thousand-seat amphitheaters. Opposer also promotes concert tours by different musical groups under the HOUSE OF BLUE mark.

Opposer's HOUSE OF BLUES music studio recording business produces and distributes compact discs under the HOUSE OF BLUES mark. Opposer's website features live pay-per-view online concert performances, advance ticket purchasing, schedules of upcoming events at HOUSE OF BLUES venues and archived recordings of concerts. Opposer's HOUSE OF BLUES Radio Hour program began in 1995, and now reaches approximately 125 United States markets. In the mid-1990s, opposer aired a television show called "Live From the HOUSE OF BLUES," which reached thousands of cable customers on the Turner Network. Opposer's hotel operations under its HOUSE OF BLUES mark include a 367-room HOUSE OF BLUES hotel in Chicago adjacent to the HOUSE OF BLUES restaurant there and the 100-room "HOUSE OF BLUES" hotel floor in the Las Vegas Mandalay Bay resort. The rooms on the HOUSE OF BLUES hotel floor are decorated in a style similar to that used in applicant's HOUSE OF BLUES restaurant/music venues.

The House of Blues Foundation is a non-profit charity which promotes education, diversity and racial harmony through music, art and culture. The foundation teaches children the history of the blues and other music genres.

Opposer has extensively promoted its core and its non-core businesses under its HOUSE OF BLUES mark in many ways, including the Internet, radio, television, newspapers, magazines, music festival programs, posters, flyers, handouts and direct mailings. Opposer promotes its HOUSE OF BLUES services and products by sponsoring televised sporting events, high-visibility celebrity events, and

music and folk art festivals. Since 1997, opposer has spent over forty-two million dollars advertising and promoting its HOUSE OF BLUES goods and services.

The record establishes beyond question that opposer's HOUSE OF BLUES mark is famous. This fact is clearly reflected in published articles made of record in connection with Mr. Fishman's testimony. In addition to the tremendous expenditures for promotional activity, the record reflects that opposer's goods and services sold under its HOUSE OF BLUES mark have resulted in gross revenues of almost eight hundred million dollars from 1997 through May of 2001. In 2000, for example, four million people visited opposer's HOUSE OF BLUES restaurant/entertainment establishments and another six and a half million people purchased tickets to opposer's HOUSE OF BLUES concerts. A customer survey which opposer had conducted in 1999 showed that forty percent of respondents in Chicago and New Orleans named opposer's clubs as their favorite place to go to hear live music being performed. No competitor received more than a ten percent response. Well known performers and other famous people, including former President Clinton, former Vice President Gore, Dan Aykroyd, Bob Dylan, Stevie Wonder, Paul Simon and B.B. King, have appeared at opposer's HOUSE OF BLUES venues, and many of these events have been widely publicized.

As noted above, applicant did not take any testimony or introduce any evidence in this proceeding. The information we have about applicant's operations and its attempt to register the mark HOUSE OF SOUL comes from the application itself and from applicant's responses to opposer's interrogatories, made of record by opposer.⁶

According to applicant's response to Interrogatory No. 20, Mr. Woods visited opposer's HOUSE OF BLUES operation in Cambridge Massachusetts in 1997. In July of that year, applicant claims to have started using the HOUSE OF SOUL mark at a banquet facility

⁶ Neither the rambling narrative submitted as applicant's brief on the case nor the exhibits attached to it are evidence in this opposition proceeding. If applicant had wanted to introduce evidence or take testimony, which would of course have been necessary in order to establish a factual basis for any of its allegations or arguments, it could have done so during its designated testimony period. Applicant did not do so.

adjacent to applicant's restaurant in Harlem, New York. For the next two years, applicant claims to have offered open-microphone nights for musical performances each week under that mark. From that time through November, 2000, applicant sponsored approximately ten musical performances and poetry readings under the mark it seeks to register. Although the application is based on the assertion that applicant intends to use the mark in connection with its services, application's response to Interrogatory No. 4 indicated that applicant claims to have actually used its mark in connection with musical performances and restaurant services since 1997.

[1] In view of opposer's obvious priority of use and ownership of registrations for its mark, the issues before the Board in this opposition proceeding are whether opposer's HOUSE OF BLUES mark is famous; whether applicant's mark, HOUSE OF SOUL, as used in connection with the services specified in the application, so resembles opposer's mark that it is likely to cause confusion, mistake or to deceive; and whether applicant's mark should be refused registration because when it is used in connection with the services set forth in the application, it is likely to cause dilution within the meaning of the Lanham Act. For the reasons set forth below, we hold that opposer's mark is famous in connection with opposer's restaurant and musical entertainment services and that applicant's mark so resembles it that when applicant uses its mark in connection with the services recited in the application, confusion is likely.

As noted above, the record clearly establishes that opposer's HOUSE OF BLUES mark is famous in connection with opposer's services. The amount and scope of advertising, promotion, and business done under opposer's mark is huge by almost any standard. As opposer points out, it exceeds what was deemed sufficient to establish that HARD ROCK CAFE, the mark of one of opposer's primary competitors, is a famous mark in this field of commerce. See: *Hard Rock Cafe Int'l (USA) Inc. v. Elsea*, 56 USPQ2d 1504, 1509-1510 (TTAB 2000).

Fame is one of the thirteen factors identified by the predecessor to our primary reviewing court in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). When a mark is famous, it is accorded a broader scope of protection than would be

the case if it were not famous. *Bose Corp. v. QSC Audio Products, Inc.*, 293 F.3d 1367, 63 USPQ2d 1303 (Fed. Cir. 2002); *Recot, Inc. v. Becton*, 214 F.3d 1322, 54 USPQ2d 1894 (Fed. Cir. 2000). Competitors must steer clear of the "long shadow" cast by famous marks. *Kenner Parker Toys Inc. v. Rose Art Industries, Inc.*, 963 F.2d 350, 353, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992).

"When marks would appear on virtually identical goods or services, the degree of similarity between the marks necessary to support a conclusion of likely confusion declines." *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 23 USPQ 1698, 1700 (Fed. Cir. 1982). In the instant case, confusion is likely because applicant's mark creates a commercial impression which is similar to the one engendered by opposer's mark, and the services set forth in the application are identical to those opposer renders under its famous mark.

Turning first to a comparison of the services, we note that we must compare the respective services of the parties as they are recited in the application and the registration, respectively, without limitations or restrictions not reflected therein. *Toys "R" Us, Inc. v. Lamps R Us*, 219 USPQ 340 (TTAB 1983). Applicant recites its services in terms of musical entertainment and restaurant services. Opposer has used and registered its mark for identical services.

Applicant's mark closely resembles opposer's famous mark. Although there are arguably subtle distinctions between the musical genres named in the marks, purchasers of opposer's goods and services and applicant's services, ordinary consumers buying amusement without a particularly high level of care or sophistication, are likely to confuse the two marks. The record includes no evidence of anyone other than opposer using HOUSE OF with other words in connection with goods or services related to those in connection with which opposer uses its HOUSE OF BLUES mark. Mr. Fishkin, whose business it is to know about such an occurrence if it ever happened, was not aware of any third party using such a mark. Significantly, applicant's recitation of services is not limited to "soul music," but rather encompasses the blues within the term "live music." Moreover, the record shows that opposer presents a wide variety of types of music under its mark.

Opposer asserts that because Mr. Woods visited opposer's Cambridge HOUSE OF BLUES venue in 1997 and began using and applied to register its HOUSE OF SOUL mark that same year, the Board should infer that applicant intended to trade off the goodwill opposer has built up in its famous mark. Based on the record before us, however, we cannot reach that conclusion. To begin with, it is unclear whether Mr. Davis' visits to the Cambridge HOUSE OF BLUES preceded applicant's adoption of its mark. Moreover, even if it had, we would have difficulty inferring from that fact that applicant's selection of its mark at that time was with the intent of evoking opposer's mark. In any event, in view of the fame of opposer's mark, the similarity of applicant's mark to it, and the identity of the services rendered under the two marks, we do not need to make such a finding in order to hold that confusion is likely within the meaning of Section 2(d) the Lanham Act.

We therefore need not reach the pleaded claim of dilution under Section 43(c) of the Act.

In summary, the record supports opposer's priority and its pleaded claims of fame and likelihood of confusion. Applicant provided absolutely no evidence or testimony to the contrary.

DECISION: The opposition is sustained and registration to applicant is refused under Section 2(d) of the Lanham Act.

Ex parte Beuther

U.S. Patent and Trademark Office Board of Patent Appeals and Interferences

No. 2003-1818

Decided December 19, 2003

(Unpublished)

PATENTS

[1] Patentability/Validity — Anticipation — Identity of elements (§ 115.0704)

Patentability/Validity — Obviousness — Relevant prior art — Particular inven- tions (§ 115.0903.03)

Patent examiner's rejections of claims for creped tissue sheet as anticipated by, and un-

patentable over, single prior art reference will not be sustained, since application claims require web to be adhered to creping drum when 20 to 60 percent dry, whereas web of reference is adhered to creping drum when at least 80 percent dry, since this difference casts considerable doubt on examiner's determination that features required by limitations of claims in application are inherent in cited reference, and that features obviously would have been provided by prior art process, since reference expressly teaches that creping blade imparts series of fine fold lines to portions of web adhered to creping drum, and since presence of fold or crepe lines belies proposition that web of prior art process inherently or obviously comprises "Yankee" side surface having smooth appearance that is substantially free of discernable crepe pattern, or that has no crepe pattern discernable to naked eye, as required by application claims.

[2] Patentability/Validity — Anticipation — Identity of elements (§ 115.0704)

Patentability/Validity — Obviousness — Relevant prior art — Particular inven- tions (§ 115.0903.03)

Patent examiner's rejection of claims for creped tissue sheet as anticipated by prior art patent disclosing tissue with soft and smooth surface will not be sustained, since examiner relied on specific example of two-layer tissue in prior patent that did not meet basis weight limitation in application claims, combined with general basis weight ranges for two-layer tissues and broadly-described three-layer design, and since anticipation is not established if it is necessary to pick, choose, and combine various portions of disclosure, not directly related to each other by teachings of reference, in order to find that application claim reads on that reference; examiner's rejection of claims as unpatentable over same reference is also reversed, since rejection is based on "eclectic" combination of portions of reference, suggested by hindsight knowledge impermissibly derived from applicants' disclosure.

Patent application of Paul D. Beuther, Richard J. Kamps, and Kurt W. Ostermeier (no. 09/223,602). Applicants appealed from final rejection of claims, and patent examiner reopened prosecution, entered superseding re-

Int. Cl.: 9

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

United States Patent and Trademark Office

Reg. No. 1,933,441

Registered Nov. 7, 1995

**TRADEMARK
PRINCIPAL REGISTER**

HOUSE OF BLUES

HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
114 MT. AUBURN STREET
CAMBRIDGE, MA 02138 ASSIGNEE OF TI-
GRET, ISAAC B. (UNITED STATES CITI-
ZEN) LOS ANGELES, CA 90049

FOR: PRERECORDED AUDIO AND VIDEO
TAPES, CASSETTES, CARTRIDGES, COM-
PACT DISCS, PHONOGRAPH RECORDS AND
OTHER SOUND AND VIDEO RECORDINGS

FEATURING MUSIC, IN CLASS 9 (U.S. CLS. 21,
23, 26, 36 AND 38).

FIRST USE 4-7-1995; IN COMMERCE
4-7-1995.

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

SN 74-313,052, FILED 9-11-1992.

IRENE D. WILLIAMS, EXAMINING ATTOR-
NEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,187,390

United States Patent and Trademark Office

Registered Sep. 8, 1998

**SERVICE MARK
PRINCIPAL REGISTER**


INTERNATIONAL
HOUSE
OF
BLUES
FOUNDATION

HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
8439 SUNSET BOULEVARD, SUITE 107
WEST HOLLYWOOD, CA 90069

FOR: NON-PROFIT EDUCATIONAL SERV-
ICES, NAMELY, PROVIDING COURSES, SEMI-
NARS, LECTURES AND PRESENTATIONS
CONCERNING CULTURE AND HISTORY, IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 3-0-1993; IN COMMERCE
3-0-1993.

OWNER OF U.S. REG. NOS. 1,722,628, 1,891,179
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "INTERNATIONAL FOUNDA-
TION", APART FROM THE MARK AS SHOWN.

SER. NO. 75-275,034, FILED 4-12-1997.

AMOS T. MATTHEWS, JR., EXAMINING AT-
TORNEY